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1 RECORD OF ORAL HEARING
2 UNITED STATES PATENT AND TRADEMARK OFFICE
3

4 BEFORE THE BOARD OF PATENT APPEALS
5 AND INTERFERENCES
6

7 *Ex Parte* METIN COLPAN
8

9 Appeal 2011-003576
10 Application 08/796,040
11 Technology Center 1600
12

13 Oral Hearing Held: January 19, 2012
14

15 Before DONALD E. ADAMS, LORA M. GREEN, and
16 JEFFREY N. FREDMAN, *Administrative Patent Judges*.

17 APPEARANCES:

18 ON BEHALF OF THE APPELLANT:

19 WILLIAM E. PLAYER, ESQUIRE
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24 The above-entitled matter came on for hearing on Thursday,
25 January 19, 2012, at the U.S. Patent and Trademark Office, 600 Dulany
26 Street, Alexandria, Virginia, before David Voigtsberger, a Notary Public.

P R O C E E D I N G S

THE USHER: Calendar No. 70, Appeal No. 2011-003576,

Mr. Player.

JUDGE ADAMS: Thank you. Ready? Good morning, Mr. Player.

MR. PLAYER: Good morning, Your Honors.

JUDGE ADAMS: We're familiar with the record. You'll have 20 minutes, and if you could begin by spelling your name into the record for our court reporter, we'd appreciate it.

MR. PLAYER: William, W-I-L-L-I-A-M. Player, P-L-A-Y-E-R.

JUDGE ADAMS: And one aspect of your invention really comes down to this idea of the buffer exchange, right? The Examiner somehow thinks that the combination of references teaches the same second buffer in step 1B as in step 2C of your rejection, or of your claim. Is that right? The Examiner's taking this position that when you do the buffer exchange with *Little*, it's going to automatically necessarily be the same second buffer solution. Is that right? I didn't want to knock you off your game there, I just wanted to sort of jump ahead.

MR. PLAYER: No. No, I had and I still have some difficulty understanding the Examiner's position completely, Your Honor.

JUDGE FREDMAN: I think the Examiner's position is right that the primary reference teaches the purification, you know, on the first ionic strength column, releasing it with salt, and then teaches generically the idea of desalting, and that this is a method of desalting. The thing the Examiner -- that that exhibit is pointing out is that one of the requirements of your claim is that when you desalt, when you removed, desorbed it, nucleic

1 acids from the anion exchanger, you're using a second buffer. And when
2 you absorb them to the desalting column, you're using that same second
3 buffer. So there's no change in the buffer between steps B and C.

4 MR. PLAYER: Correct, Your Honor.

5 JUDGE FREDMAN: And that doesn't seem to be consistent with the
6 prior art, where there may be urea imparted, but the buffers do not --
7 wouldn't be the same.

8 MR. PLAYER: Yes, Your Honor. I probably could go home,
9 because I think you just pointed out my argument.

10 JUDGE ADAMS: This idea of chaotropic agent, that's not coming
11 from Appellants, that's coming from what the Examiner relied on in his
12 prior art, right? This whole back and forth between --

13 MR. PLAYER: Yes, Your Honor. He's using urea --

14 JUDGE ADAMS: you and the Examiner regarding this buffer.

15 MR. PLAYER: -- as a chaotropic agent, and then somehow drawing
16 in all of *Little* into that.

17 JUDGE ADAMS: Right. Okay. So the way the Examiner set up the
18 rejection, it would be, you would need some sort of buffer exchange
19 between part I, or Roman numeral I of your claim step and Roman numeral
20 II of your claim step to shift it over -- to shift whatever you get off of your
21 anion exchange column into a chaotropic buffer system to proceed with
22 *Little*'s desalting step. Is that the idea?

23 JUDGE FREDMAN: So the buffer wouldn't be the same --

24 JUDGE ADAMS: So the second buffer wouldn't be the same as you
25 move from part Roman numeral I to part Roman numeral II.

26

1 MR. PLAYER: Well, that's our position. If I may just briefly
2 approach the Board, since I went to such -- took time doing this.

3 JUDGE ADAMS: Absolutely.

4 MR. PLAYER: Your Honor, I think --

5 JUDGE ADAMS: Has the Examiner seen this?

6 MR. PLAYER: No. This is just --

7 JUDGE ADAMS: Then we're going to just ask you to take it back at
8 the end of the hearing.

9 MR. PLAYER: I'd be glad to present it to him. But this -- everything
10 that's on there is in the brief and in the Reply Brief. It's merely for
11 illustrative purposes I use the --

12 JUDGE ADAMS: But this is basically what --

13 MR. PLAYER: What we were just talking about.

14 JUDGE ADAMS: Right.

15 MR. PLAYER: Is that you -- the nucleic acids in the first buffer --
16 Well this, first of all, this is the single column embodiment, figure 1 of the
17 application. It's discussed in pages 12 and 13 on there.

18 JUDGE ADAMS: There's one claim - 20. Does that require it be in
19 the same column?

20 MR. PLAYER: No, it doesn't.

21 JUDGE ADAMS: Okay.

22 MR. PLAYER: This is just an easy way to explain it, in that when
23 you apply the second buffer to the -- well, first, the first buffer with the
24 nucleic acids causes the absorption onto the ionic exchange material. Then
25 the second buffer applied to the anionic exchanger material both desorbs it
26

1 from the anionic exchange and allows it to be absorbed on to the mineral
2 support material.

3 Now, this can be done in a single column or in two columns, and they
4 can be washing steps. But the single column illustrates it quite easily. It just
5 draws it right through and then allows it to absorb in the second, and that
6 allows the second purification stage, and then it just needs to be eluted from
7 the column.

8 JUDGE ADAMS: We got it.

9 MR. PLAYER: And this isn't suggested in the prior art.

10 JUDGE ADAMS: Okay. Any questions?

11 JUDGE GREEN: No.

12 JUDGE ADAMS: Question?

13 JUDGE FREDMAN: No, no.

14 JUDGE ADAMS: Okay. Thanks for coming in.

15 MR. PLAYER: Your Honors, thank you very much.

16 (Whereupon, the proceedings were concluded.)
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